

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF R. BRUCE) APPEAL NO. 07-A-2139
SOELBERG from the decision of the Board of) FINAL DECISION
Equalization of Butte County for tax year 2007.) AND ORDER

RURAL LAND APPEAL

THIS MATTER came on for hearing September 25, 2007, in Arco, Idaho before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellant R. Bruce Soelberg did not appear at hearing. Assessor Laurie Gamett and Prosecuting Attorney Steve Stephens appeared for Respondent Butte County. This appeal is taken from a decision of the Butte County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP03N26E025255A.

The issue on appeal is the market value of a rural property.

The decision of the Butte County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$6,400. Appellant requests the land value be reduced to \$875.

The subject property is a five acre parcel located in Butte County. Subject was previously part of a larger parcel in excess of 200 acres valued as agricultural property. Appellant sold the larger parcel in December 2006. Subject was assessed as rural property for the 2007 tax year.

Appellant failed to appear at hearing, however, submitted a letter with the appeal form, which will constitute the evidence in support of Appellant's value claim. Appellant noted subject had no "appurtenant water right and no water well."

Appellant also referenced a 10-acre sale in a subdivision "across the fence." The parcel reportedly sold for \$1,000 per acre. Appellant alleged subject was assessed inequitably

compared to other properties.

Respondent noted subject's value was discounted 40% for location and limited access. Four (4) sales were presented to support the assessment. The sales ranged in size from 4.68 acres to 15.269 acres and sold between \$1,450 and \$2,564 per acre. Sale 1 was noted to be adjacent to subject and sold for \$2,096 per acre. Subject was assessed at \$1,280 per acre.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Though unclear in the letter, it appears Appellant was requesting an agricultural exemption for subject. Idaho Code § 63-604 pertains to agricultural exemptions and reads in pertinent part;

Land actively devoted to agriculture defined. – (1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

- (i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; or
- (ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or
- (iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or
- (iv) It is in a cropland retirement or rotation program.

(b) The area of such land is five (5) contiguous acres or less and such land has been actively devoted to agriculture within

the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income;

or

(ii) It agriculturally produced gross revenue in the immediately preceding year of one thousand dollars (\$1,000) or more. When the area of land is five (5) contiguous acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met

As subject is not larger than five (5) acres, it does not qualify under subsection (a). Nor does it appear subject qualifies under subsection (b). Appellant offered no information concerning income generated by subject. The fact that subject has no water rights further supports the conclusion the land does not qualify under this subsection.

"Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption" Bistline v. Bassett, 47 Idaho 66, 71, 272 P. 696, 698 (1928). Appellant has failed to prove subject qualifies for an agricultural exemption.

As the property does not qualify for exemption, we turn now to the question of subject's market value. Appellant referenced a 10-acre sale for \$1,000 per acre located "across the fence". No details concerning the physical characteristics of the sale property were presented. Also, it is unclear from Appellant's letter when the property sold. There are too many questions for the Board to rely on this sale in support of subject's value.

Respondent presented four (4) rural land sales. Sale dates were not provided, but the properties sold between \$1,450 and \$ 2,564 per acre. Sale 1 involved a 15.269 acre parcel adjacent to subject that sold for \$2,096 per acre. While this sale is proximate to subject, no physical characteristics were discussed.

The burden is on Appellant to show by a preponderance of the evidence the Assessor's value concerning subject is erroneous. See Idaho Code § 63-511. That burden was not met.

There were some questions of comparability concerning Respondent's sales, however, they were the only verified sales for the Board to consider. Further, Respondent adjusted subject's value downward by 40% to account for the property's location and poor access. Given the evidence presented in this matter it appears subject was valued fairly and reasonably. Therefore, we affirm the decision of the Butte County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Butte County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 30, 2008